



# The Town of Barnstable

## Office of Town Manager

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December 15, 2022

To: Barnstable Town Councilors

From: Mark S. Ells, Town Manager

RE: Town Manager update for December 2 thru 15, 2022

1. Brian Florence, Director of Inspectional Services, shall provide an update on the Rental Registration Program.
2. At the December 1, 2022 Town Council meeting the potential release of wastewater from the Pilgrim Nuclear Power Plant in Plymouth into Cape Cod Bay was taken under advisement and referred to our Legal staff. At the February 3, 2022 Town Council meeting, the Council approved sending a letter to state and federal officials and policy makers opposing any plan to discharge radioactive wastewater into Cape Cod Bay by Holtec. (Agenda Item 2022-075) The following is a summary of this situation and our continued efforts relative to the matter. Holtec Decommissioning International purchased the Pilgrim Nuclear Power Plant in 2019 for the purpose of decommissioning the facility. Holtec then filed with the Federal Nuclear Regulatory Commission (NRC) for permission to discharge treated radioactive wastewater into Cape Cod Bay with radioactive levels at 40% of NRC-approved limits. The NRC approved the application.

However, the NRC authority only extends to radioactive waste. Because the cooling waters also can contain a host of other non-nuclear pollutants, including metals and chemicals, Holtec was required to seek approval under the federal Clean Water Act to release wastewater containing such pollutants. A National Pollutant Discharge Elimination System (NPDES) permit for certain discharges was issued in January 2020 by the federal Environmental Protection Agency (EPA) as part of a composite permit issued by the Commonwealth's Department of Environmental Protection.

In June of this year, the EPA notified Holtec in writing that it did not agree with Holtec's position that the NPDES permit allows the discharge of treated wastewater into the Bay and informed Holtec that further EPA permitting would be required for discharges of the non-radioactive content of the wastewater.

Last month, at a public meeting in Plymouth, a Holtec representative said the company would pursue permitting but expressly declined to make a commitment that Holtec would not discharge wastewater or give advance notice of any such discharge.

In response to those statements, the EPA immediately issued a very strongly worded letter to Holtec warning that Holtec currently lacks the necessary federal permit for such a discharge and that releasing wastewater without EPA approval would expose Holtec to severe civil and potential criminal penalties under the Clean Water Act. That letter also imposed on Holtec a requirement that Holtec provide advance notice to the EPA prior to any planned discharge but made it clear that the notice requirement did not constitute authorization for any such discharge. A copy of that letter has been provided to you.

Our legal department is closely following the situation and has been in contact with the EPA, the law firm of Anderson and Kreiger, which is serving as special counsel for the Town of Plymouth and with the law firm of Sugarman, Rogers, Barshack, and Cohen, counsel to The Association to Preserve Cape Cod. We are exploring how we may all work collaboratively on this issue. It is the Town's intent to immediately seek written assurance from Holtec that it will not discharge any wastewater without the necessary permits. If no such written assurances are given, the Town will consider its full range of legal options to block such potential discharges.

3. We are proceeding with the Budget Action Calendar for FY 2024. A public hearing was held on November 15, 2022 at 11:00 AM for proposed changes to various Town of Barnstable permit and programs fees that take effect on January 1, 2023 as well as on a proposed taxi meter rate increase for taxis licensed to operate within the Town of Barnstable effective January 1, 2023. The hearing can be viewed on the Town of Barnstable's website. We accepted public comments through December 14, 2022 and expect to make a decision relative to proposed fees changes by December 21, 2022. Information regarding the proposed changes is available on the Town Manager's page of the Town of Barnstable's website at [www.townofbarnstable.us](http://www.townofbarnstable.us). For information on our fiscal year budgets, please view the Town's Open Budget website at <http://budget.townofbarnstable.us>.
4. The Town of Barnstable received a \$1.0M grant from the Seaport Economic Council on December 13, 2022 for the Bismore Park Marina Bulkhead Replacement project. The Seaport Economic Council assists each of Massachusetts' 78 coastal communities use their unique assets to grow the economy, create jobs, and prepare for the impact of climate changes. I want to thank our staff for applying for and receiving this grant award.
5. The Town of Barnstable has been provided notice that Eversource has applied for a Vegetation Management Plan.(VMP) Pursuant to the Rights-of-Way Management Regulations (333 CMR 11.00) in order to apply pesticides to control vegetation to maintain Rights-of-Ways, the Massachusetts Department of Agricultural Resources (MDAR) must approve a Vegetation Management Plan and a Yearly Operational Plan (YOP). The VMP is intended to justify the need to control vegetation, identify target vegetation, describe the intended methods of control, describe methods for identifying sensitive areas, describe operational guidelines for applicators, outline a program of Integrated Pest Management (IPM) designed to reduce the use of herbicides, and describe alternative land use activities. Our staff is preparing written comments on

the VMP for submittal to MDAR by December 23, 2022. We will keep you advised of our progress on this matter.

6. The Town's property values and tax rates (town and fire districts) for fiscal year 2023 have all been approved by the Department of Revenue (DOR) and the 3rd and 4th quarter tax bills for fiscal year 2023 will be mailed before the end of December. These tax bills will reflect the new property values and tax rates approved by the DOR. The first two quarterly tax bills were the preliminary bills communities are authorized to issue in anticipation of updated property values and approved tax rates. The Council should be aware that the values went up on average 27% due to a strong residential real estate market in calendar year 2021 (the basis for the fiscal year 2023 values). However, the tax levy only went up 3.2%. When the percentage growth in property valuation exceeds the percentage growth in the tax levy the tax rate comes down. The fiscal year 2022 residential tax rate was \$8.64 and for fiscal year 2023 it is \$7.07. The median assessed single family dwelling for fiscal year 2022 was \$412,600 and this year it is \$538,100. After applying a 20% residential exemption to qualifying properties the increase in the median residential tax bill for fiscal year 2023 is \$196 or \$16 per month.
7. On June 1, 2022, the Town of Barnstable was informed of regulatory revisions the Massachusetts Department of Environmental Protection (MassDEP) was developing to ensure that timely actions are taken to restore and protect coastal estuaries that have been impacted by excessive nitrogen pollution. MassDEP conducted three public hearings one of which was held at Barnstable Town Hall on December 5, 2022. In response to requests made during the public hearings, the public comment period for the Massachusetts Department of Environmental Protection's (MassDEP) draft amendments to the Title 5 regulations, 310 CMR 15.000, and the new, related Watershed Permit regulations at 314 CMR 21.00, has been extended until January 30, 2023 and MassDEP will be hosting two additional Public Hearings:

Remote Only, January 24, 2023 at 6:00 p.m. Register at:

[https://us06web.zoom.us/webinar/register/WN\\_velVS545RCqGZhl6tuN2rQ](https://us06web.zoom.us/webinar/register/WN_velVS545RCqGZhl6tuN2rQ)

Remote Only, January 25, 2023 at 6:00 p.m. Register at:

[https://us06web.zoom.us/webinar/register/WN\\_Is2pAS\\_cR\\_uXvNhhs5r3oQ](https://us06web.zoom.us/webinar/register/WN_Is2pAS_cR_uXvNhhs5r3oQ)

MassDEP also intends to hold two additional information sessions on: January 17, 2023 at 6:00 p.m. (remote) and January 18, 2023 at 6:00 p.m. (hybrid). More information about how to participate in these sessions will be provided on the MassDEP's website.

The draft regulations are published on the MassDEP website at: <https://www.mass.gov/info-details/massdep-public-hearings-comment-opportunities> and at: [310 CMR 15.000: Septic Systems \("Title 5"\) | Mass.gov](#) and [314 CMR 21.00: Watershed Permit Regulations | Mass.gov](#)

Recordings of previously held information sessions and public hearings can also be found here: [310 CMR 15.000: Septic Systems \("Title 5"\) | Mass.gov](#)

We will keep you advised of the progress on this matter.

8. We continue review of permits filed with regulatory agencies regarding the proposed Phase 3 (Commonwealth Wind) landing of cable in Barnstable. At the presentation in March 2022 the proposed landing locations for cable in Osterville were shared with the Town Council. Commonwealth Wind shared said information following their filing for Site Assessment approval with the U.S. Bureau of Ocean Energy Management documents that identified their proposed project including landing and cable route locations. I commenced Host Community Agreement (HCA) negotiation with Commonwealth Wind on December 13, 2022 as authorized by Town Council. In addition to the HCA the discussion focused on Commonwealth Wind's request to delay their filing with the Department of Public Utilities (DPU) in order to renegotiate their Power Purchasing Agreement for which they continue discussions with the state and other relevant parties. They had not changed their filing of environmental/project permitting for the Commonwealth Wind project and are proceeding. We will keep you advised of our progress on this matter.
9. The Town of Barnstable received notice from the Mass Municipal Association this week that we are being recognized with an award for 1st place in Category 1 (population 15,000 plus) of the MMA's Annual Town Report contest. The award will be presented at the MMA Annual Meeting and Conference in January.
10. Dan Santos, Director of Public Works, shall provide us on Water Resource Planning including an update on the Comprehensive Wastewater Management Plan.